

# SENATE JOURNAL

OF THE

## IDAHO LEGISLATURE

FIRST REGULAR SESSION  
FIFTY-EIGHTH LEGISLATURE

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**FIFTY-FIRST LEGISLATIVE DAY**  
**TUESDAY, MARCH 1, 2005**

Senate Chamber

President Pro Tempore Geddes called the Senate to order at 10 a.m.

Roll call showed all members present except Senator Stennett, absent and formally excused by the Chair; and Senators Cameron, Keough, Lodge, Marley, McGee, Pearce, Schroeder, and Werk, absent and excused.

Prayer was offered by Chaplain Don Hardenbrook.

The Pledge of Allegiance was led by Noel Herrick, Page.

The Senate advanced to the Third Order of Business.

### Reading and Correction of the Journal

Senators McGee, Pearce, and Schroeder were recorded present at this order of business.

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of February 28, 2005, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Sixth Order of Business.

### Reports of Standing Committees

Senators Cameron, Keough, Lodge, Marley, and Werk were recorded present at this order of business.

March 1, 2005

The JUDICIARY AND RULES Committee reports that **S 1163**, **S 1164**, **S 1165**, **S 1166**, **S 1167**, **S 1168**, **SCR 114**, **SCR 115**, and **SJM 107** have been correctly printed.

DARRINGTON, Chairman

**S 1163** was referred to the Health and Welfare Committee.

**S 1164**, **S 1165**, and **S 1166** were referred to the Judiciary and Rules Committee.

**S 1167** and **S 1168** were referred to the State Affairs Committee.

**SCR 114**, **SCR 115**, and **SJM 107** were referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

February 28, 2005

The JUDICIARY AND RULES Committee reports that Enrolled **SCR 106** was delivered to the Office of the Secretary of State at 2:27 p.m., February 28, 2005.

DARRINGTON, Chairman

The report was ordered filed in the office of the Secretary of the Senate.

February 28, 2005

The JUDICIARY AND RULES Committee reports out **S 1156**, **S 1121**, and **S 1134** with the recommendation that they do pass.

DARRINGTON, Chairman

**S 1156**, **S 1121**, and **S 1134** were filed for second reading.

February 28, 2005

The JUDICIARY AND RULES Committee reports out **S 1086** and **S 1136** with the recommendation that they be referred to the Fourteenth Order of Business for amendment.

DARRINGTON, Chairman

There being no objection, **S 1086** and **S 1136** were referred to the Fourteenth Order of Business, General Calendar.

February 28, 2005

The RESOURCES AND ENVIRONMENT Committee reports it has had under consideration the Gubernatorial appointments listed below and the Committee recommends that said appointments be confirmed by the Senate:

William C. Bernt to the Idaho Outfitters and Guides Licensing Board, term to expire April 20, 2007;

C. Wayne Hunsucker to the Idaho Outfitters and Guides Licensing Board, term to expire April 20, 2007.

SCHROEDER, Chairman

The Gubernatorial appointments were referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

February 28, 2005

The RESOURCES AND ENVIRONMENT Committee reports out **S 1099** and **S 1138** with the recommendation that they do pass.

SCHROEDER, Chairman

**S 1099** and **S 1138** were filed for second reading.

February 28, 2005

The HEALTH AND WELFARE Committee reports out **HJM 3**, **H 42**, **H 43**, and **H 45** with the recommendation that they do pass.

COMPTON, Chairman

**H 42**, **H 43**, and **H 45** were filed for second reading.

**HJM 3** was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

February 28, 2005

The HEALTH AND WELFARE Committee reports out **H 50** with the recommendation that it be referred to the Fourteenth Order of Business for amendment.

COMPTON, Chairman

There being no objection, **H 50** was referred to the Fourteenth Order of Business, General Calendar.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eighth Order of Business.

#### Messages from the Governor

February 25, 2005

The Honorable James E. Risch  
President of the Senate  
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that Estella O. Zamora of Caldwell, Idaho, was appointed as a member of the Idaho Commission on Human Rights to serve a term commencing July 1, 2004, and expiring July 1, 2007.

This appointment was made subject to confirmation by the Senate. Notice of appointment is hereby given.

Sincerely,  
/s/ Dirk Kempthorne  
Governor

February 28, 2005

The Honorable James E. Risch  
President of the Senate  
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that James Michael "Dyke" Nally of Boise, Idaho, was appointed as Superintendent of the Idaho State Liquor Dispensary to serve a term commencing January 4, 2005, and expiring January 4, 2008.

This appointment was made subject to confirmation by the Senate. Notice of appointment is hereby given.

Sincerely,  
/s/ Dirk Kempthorne  
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

The Gubernatorial appointments were referred to the State Affairs Committee.

The Senate advanced to the Ninth Order of Business.

#### Messages from the House

February 28, 2005

Mr. President:

I transmit herewith **H 16**, **H 17**, **H 18**, **H 183**, **H 136**, **H 140**, **H 141**, **H 161**, **H 200**, **H 92**, **H 229**, and **H 128** which have passed the House.

JUKER, Chief Clerk

**H 16**, **H 17**, **H 18**, **H 183**, **H 136**, **H 140**, **H 141**, **H 161**, **H 200**, **H 92**, **H 229**, and **H 128** were filed for first reading.

February 28, 2005

Mr. President:

I transmit herewith Enrolled **H 66**, **H 51**, **H 59**, **H 91**, **H 24**, **H 39**, **H 22**, and **H 126** for the signature of the President.

JUKER, Chief Clerk

The President Pro Tempore signed Enrolled **H 66**, **H 51**, **H 59**, **H 91**, **H 24**, **H 39**, **H 22**, and **H 126** and ordered them returned to the House.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eleventh Order of Business.

**Introduction, First Reading and Reference of Bills,  
House Petitions, Resolutions, and Memorials**

**S 1169**

**BY STATE AFFAIRS COMMITTEE**

**AN ACT**

RELATING TO PRACTICES GOVERNING ORE PROCESSING BY CYANIDATION; AMENDING SECTION 39-103, IDAHO CODE, TO FURTHER DEFINE TERMS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 39-118A, IDAHO CODE, TO SPECIFY REQUIREMENTS FOR A PERMIT FROM THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY FOR A FACILITY TO CONDUCT ORE PROCESSING BY CYANIDATION AND TO GOVERN APPLICATION OF PROVISIONS DURING TRANSITION; AMENDING SECTION 47-1501, IDAHO CODE, TO INCLUDE CLOSURE OF CYANIDATION FACILITIES WITHIN PURPOSES OF THE CHAPTER AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 47-1502, IDAHO CODE, TO SPECIFY SCOPE OF THE CHAPTER AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 47-1503, IDAHO CODE, TO FURTHER DEFINE TERMS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 47-1505, IDAHO CODE, TO INCLUDE CLOSURE ACTIVITIES OF A CYANIDATION FACILITY WITHIN DUTIES OF THE BOARD OF LAND COMMISSIONERS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 47-1506, IDAHO CODE, TO ENUMERATE DUTIES OF A CYANIDATION FACILITY OPERATOR AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 47-1507, IDAHO CODE, TO GOVERN APPROVAL OR REJECTION OF A PERMANENT CLOSURE PLAN AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 47-1508, IDAHO CODE, TO GOVERN SUBMISSION OF AN AMENDED OR SUPPLEMENTAL PLAN, TO PROVIDE APPLICATION OF CLOSURE REQUIREMENTS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 47-1512, IDAHO CODE, TO GOVERN SUBMISSION OF A BOND AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 47-1513, IDAHO CODE, TO PROVIDE FORFEITURE OF BOND AND PENALTIES FOR OPERATOR'S FAILURE TO COMPLY WITH PERMANENT CLOSURE PLAN OF A CYANIDATION FACILITY, TO PROVIDE FOR REVIEW AND REVISION OF PLANS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 47-1514, IDAHO CODE, TO PROVIDE FOR APPEAL FROM AN ORDER AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 47-1517, IDAHO CODE, TO SPECIFY REQUIREMENTS FOR CONDUCT OF A CYANIDATION FACILITY; AMENDING SECTION 47-1518, IDAHO CODE, TO GOVERN APPLICATION OF THE CHAPTER AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 42-202B, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE.

**S 1170**

**BY JUDICIARY AND RULES COMMITTEE**

**AN ACT**

RELATING TO PUBLIC CHARTER SCHOOLS; AMENDING SECTION 33-5202A, IDAHO CODE, TO REVISE THE DEFINITION FOR "PUBLIC VIRTUAL SCHOOL";

AMENDING SECTION 33-5203, IDAHO CODE, TO REVISE LIMITATIONS APPLICABLE TO THE CREATION OF PUBLIC CHARTER SCHOOLS AND TO REVISE TERMINOLOGY; AMENDING SECTION 33-5204, IDAHO CODE, TO PROVIDE THAT THE BOARD OF DIRECTORS OF A PUBLIC CHARTER SCHOOL SHALL BE DEEMED PUBLIC AGENTS AUTHORIZED BY THE PUBLIC CHARTER SCHOOL COMMISSION, TO PROVIDE THAT THE BOARD OF DIRECTORS OF A PUBLIC CHARTER SCHOOL SHALL FUNCTION INDEPENDENTLY OF THE PUBLIC CHARTER SCHOOL COMMISSION EXCEPT AS PROVIDED IN THE CHARTER, TO PROVIDE AN EXCEPTION TO THE APPLICATION OF REFERENCED CODE SECTIONS AND TO REVISE TERMINOLOGY; AMENDING SECTION 33-5205, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO PETITIONS TO ESTABLISH PUBLIC CHARTER SCHOOLS; AMENDING CHAPTER 52, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-5205A, IDAHO CODE, TO PROVIDE FOR TRANSFERS OF CHARTERS; AMENDING SECTION 33-5206, IDAHO CODE, TO PROVIDE THAT EDUCATIONAL EXPERIENCE SHALL BE COUNTED BY A SCHOOL DISTRICT FOR ANY TEACHER WHO HAS BEEN EMPLOYED IN A PUBLIC CHARTER SCHOOL, TO PROVIDE THAT A COPY OF THE APPROVED PETITION SHALL BE PROVIDED TO THE STATE BOARD OF EDUCATION UPON APPROVAL OF THE PETITION BY THE AUTHORIZED CHARTERING ENTITY AND TO PROVIDE FOR THE DISTRIBUTION OF ASSETS WHEN A CHARTER IS REVOKED OR THE BOARD OF DIRECTORS OF THE PUBLIC CHARTER SCHOOL TERMINATES THE CHARTER; AMENDING SECTION 33-5207, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO THE CHARTER APPEAL PROCEDURE; AMENDING SECTION 33-5208, IDAHO CODE, TO PROVIDE THAT ALL FEDERAL EDUCATIONAL FUNDS SHALL BE ADMINISTERED AND DISTRIBUTED TO PUBLIC CHARTER SCHOOLS THAT HAVE BEEN DESIGNATED AS REQUIRED BY THE STATE BOARD OF EDUCATION; AMENDING SECTION 33-5209, IDAHO CODE, TO REVISE TERMINOLOGY, TO PROVIDE THAT A DECISION TO REVOKE A CHARTER OR TO DENY A REVISION OF A CHARTER MAY BE APPEALED DIRECTLY TO THE STATE BOARD OF EDUCATION AND TO PROVIDE THAT THE STATE BOARD OF EDUCATION SHALL SUBSTANTIALLY FOLLOW CERTAIN PROCEDURES WITH RESPECT TO SUCH APPEAL; AND AMENDING SECTION 33-5210, IDAHO CODE, TO REVISE TERMINOLOGY.

**S 1169** and **S 1170** were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

**H 16**, **H 17**, and **H 18**, by Education Committee, were introduced, read the first time at length, and referred to the Education Committee.

**H 183**, by Transportation and Defense Committee, was introduced, read the first time at length, and referred to the Transportation Committee.

**H 136**, **H 140**, **H 141**, **H 161**, and **H 200**, by Business Committee, were introduced, read the first time at length, and referred to the Commerce and Human Resources Committee.

**H 92**, by Resources and Conservation Committee, was introduced, read the first time at length, and referred to the Resources and Environment Committee.

**H 229**, by State Affairs Committee, was introduced, read the first time at length, and referred to the Resources and Environment Committee.

**H 128**, by Judiciary, Rules, and Administration Committee, was introduced, read the first time at length, and referred to the Judiciary and Rules Committee.

The Senate advanced to the Twelfth Order of Business.

### Second Reading of Bills

**H 106**, by Environment, Energy, and Technology Committee, was read the second time at length and filed for third reading.

**H 48**, by State Affairs Committee, was read the second time at length and filed for third reading.

**S 1125** and **S 1161**, by State Affairs Committee, were read the second time at length and filed for third reading.

**S 1119**, by Judiciary and Rules Committee, was read the second time at length and filed for third reading.

**S 1126**, by Transportation Committee, was read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

### Third Reading of Bills

**S 1135** was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Sweet arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Brandt, Broadsword, Bunderson, Burkett, Burtenshaw, Cameron, Coiner, Compton, Corder, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, Marley, McGee, McKenzie, Noble, Pearce, Richardson, Schroeder, Stegner, Sweet, Werk, Williams. Total - 34.

NAYS--None.

Absent and excused--Stennett. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **S 1135** passed, title was approved, and the bill ordered transmitted to the House.

Senator Stennett was recorded present at this order of business.

**S 1140** was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Keough arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Broadsword, Burkett, Coiner, Compton, Gannon, Goedde, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, Marley, Schroeder, Stegner, Stennett, Werk. Total - 18.

NAYS--Brandt, Bunderson, Burtenshaw, Cameron, Corder, Darrington, Davis, Geddes, Hill, Jorgenson, McGee, McKenzie, Noble, Pearce, Richardson, Sweet, Williams. Total - 17.

Total - 35.

Whereupon the President Pro Tempore declared **S 1140** passed, title was approved, and the bill ordered transmitted to the House.

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate recessed at 12:05 p.m. until the hour of 4:30 p.m. of this day.

### RECESS AFTERNOON SESSION

The Senate reconvened at 4:30 p.m., pursuant to recess, President Pro Tempore Geddes presiding.

Roll call showed all members present except Senators Pearce, Richardson, and Stennett, absent and formally excused by the Chair; and Senators Bunderson, Corder, Hill, Langhorst, Malepeai, McKenzie, Stegner, Sweet, and Williams, absent and excused.

Prior to recess the Senate was at the Thirteenth Order of Business, Third Reading of Bills.

Senators Bunderson, Corder, Malepeai, McKenzie, Stegner, and Williams were recorded present at this order of business.

President Pro Tempore Geddes called Senator Little to the Chair.

**S 1153** was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Goedde arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Brandt, Broadsword, Bunderson, Burkett, Burtenshaw, Cameron, Coiner, Compton, Corder, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Jorgenson, Kelly, Keough, Little, Lodge, Malepeai, Marley, McGee, McKenzie, Noble, Schroeder, Stegner, Werk, Williams. Total - 30.

NAYS--None.

Absent and excused--Langhorst, Pearce, Richardson, Stennett, Sweet. Total - 5.

Total - 35.

Whereupon the Acting President declared **S 1153** passed, title was approved, and the bill ordered transmitted to the House.

On request by Senator Davis, granted by unanimous consent, **S 1036**, as amended, retained its place on the Third Reading Calendar for one legislative day.

Senator Langhorst was recorded present at this order of business.

**S 1068**, as amended, was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Davis arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Brandt, Broadsword, Bunderson, Burkett, Burtenshaw, Cameron, Coiner, Compton, Corder, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, Marley, McGee, McKenzie, Noble, Schroeder, Stegner, Werk, Williams. Total - 31.

NAYS--None.

Absent and excused--Pearce, Richardson, Stennett, Sweet. Total - 4.

Total - 35.

Whereupon the Acting President declared **S 1068**, as amended, passed, title was approved, and the bill ordered transmitted to the House.

On request by Senator Davis, granted by unanimous consent, **S 1143** retained its place on the Third Reading Calendar for one legislative day.

**S 1162** was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Cameron arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Brandt, Broadsword, Bunderson, Burkett, Burtenshaw, Cameron, Coiner, Compton, Corder, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, Marley, McGee, McKenzie, Noble, Schroeder, Stegner, Werk, Williams. Total - 31.

NAYS--None.

Absent and excused--Pearce, Richardson, Stennett, Sweet. Total - 4.

Total - 35.

Whereupon the Acting President declared **S 1162** passed, title was approved, and the bill ordered transmitted to the House.

**H 46** was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Darrington arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Brandt, Broadsword, Bunderson, Burkett, Burtenshaw, Cameron, Coiner, Compton, Corder, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, Marley, McGee, McKenzie, Noble, Schroeder, Stegner, Werk, Williams. Total - 31.

NAYS--None.

Absent and excused--Pearce, Richardson, Stennett, Sweet. Total - 4.

Total - 35.

Whereupon the Acting President declared **H 46** passed, title was approved, and the bill ordered returned to the House.

**H 47** was read the third time at length, section by section, and placed before the Senate for final consideration. Senator McKenzie arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Brandt, Broadsword, Bunderson, Burkett, Burtenshaw, Cameron, Coiner, Compton, Corder, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, Marley, McGee, McKenzie, Noble, Schroeder, Stegner, Werk, Williams. Total - 31.

NAYS--None.

Absent and excused--Pearce, Richardson, Stennett, Sweet. Total - 4.

Total - 35.

Whereupon the Acting President declared **H 47** passed, title was approved, and the bill ordered returned to the House.

Senator Sweet was recorded present at this order of business.

**H 103** was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Keough arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Brandt, Broadsword, Bunderson, Burkett, Burtenshaw, Cameron, Coiner, Compton, Corder, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, Marley, McGee, McKenzie, Noble, Schroeder, Stegner, Sweet, Werk, Williams. Total - 32.

NAYS--None.

Absent and excused--Pearce, Richardson, Stennett. Total - 3.

Total - 35.

Whereupon the Acting President declared **H 103** passed, title was approved, and the bill ordered returned to the House.

On request by Senator Davis, granted by unanimous consent, all Senate bills were placed at the head of the Third Reading Calendar, followed by House bills.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

#### **Miscellaneous Business**

On motion by Senator Davis, seconded by Senator Burkett, by voice vote the Senate adjourned at 5:20 p.m. until the hour of 10 a.m., Wednesday, March 2, 2005.

ROBERT L. GEDDES, President Pro Tempore

Attest: JEANNINE WOOD, Secretary